

By: J. Johnson of Harris

H.B. No. 45

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain criminal defendants for an order of nondisclosure of criminal history record information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.0725(e), Government Code, is amended to read as follows:

(e) A person may petition the court that placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the 180th day after the date [~~second anniversary~~] of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code; or

(3) the first [~~fifth~~] anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

SECTION 2. Subchapter E-1, Chapter 411, Government Code, is amended by adding Sections 411.0732 and 411.0737 to read as follows:

Sec. 411.0732. PROCEDURE FOR COMMUNITY SUPERVISION

1 FOLLOWING CONVICTION; CERTAIN NONVIOLENT FELONIES. (a) This
2 section applies only to a person placed on community supervision
3 under Chapter 42A, Code of Criminal Procedure:

4 (1) following a conviction of a felony other than a
5 felony:

6 (A) listed in Article 42A.054(a), Code of
7 Criminal Procedure;

8 (B) for which the judgment contains an
9 affirmative finding under Article 42A.054(c) or (d), Code of
10 Criminal Procedure;

11 (C) punishable as a felony of the second degree
12 or a felony of the first degree under Subchapter D, Chapter 481,
13 Health and Safety Code;

14 (D) punishable under Section 481.1122, Health
15 and Safety Code;

16 (E) under Title 5, Penal Code;

17 (F) under Chapter 25, 29, 43, 49, or 71, Penal
18 Code;

19 (G) under Section 28.02, 36.02, 42.072, or 42.08,
20 Penal Code;

21 (H) punishable as a felony of the second degree
22 or a felony of the first degree under Section 28.03, Penal Code;

23 (I) punishable as a felony of the first degree
24 under Section 30.02, Penal Code;

25 (J) under Section 31.03 or 34.02, Penal Code,
26 that is punishable as a felony of the third degree or any higher
27 category of offense;

1 (K) punishable as a felony of the second degree
2 or a felony of the first degree under Section 38.06, Penal Code; or

3 (L) punishable as a felony of the second degree
4 under Section 46.14, Penal Code; and

5 (2) under a provision of Chapter 42A, Code of Criminal
6 Procedure, other than Subchapter C, including:

7 (A) a provision that requires the person to serve
8 a term of confinement as a condition of community supervision; or

9 (B) another provision that authorizes placing a
10 person on community supervision after the person has served part of
11 a term of confinement imposed for the offense.

12 (b) Notwithstanding any other provision of this subchapter
13 or Subchapter F, a person described by Subsection (a) whose
14 community supervision is not revoked and who completes the period
15 of community supervision, including any term of confinement imposed
16 and payment of all fines, costs, and restitution imposed, may
17 petition the court that placed the person on community supervision
18 for an order of nondisclosure of criminal history record
19 information under this section if the person:

20 (1) satisfies the requirements of this section and
21 Section 411.074;

22 (2) has never been previously convicted of or placed
23 on deferred adjudication community supervision for another offense
24 other than:

25 (A) a traffic offense that is punishable by fine
26 only; or

27 (B) an offense arising out of the criminal

1 episode during which the offense that is the subject of the petition
2 occurred; and

3 (3) has never previously received an order of
4 nondisclosure of criminal history record information under this
5 subchapter or other law for an offense, other than an offense
6 described by Subdivision (2)(A) or (B).

7 (c) After notice to the state, an opportunity for a hearing,
8 and a determination that the person is entitled to file the petition
9 and issuance of the order is in the best interest of justice, the
10 court shall issue an order prohibiting criminal justice agencies
11 from disclosing to the public criminal history record information
12 related to the offense giving rise to the community supervision.

13 (d) A person may petition the court that placed the person
14 on community supervision for an order of nondisclosure of criminal
15 history record information under this section only on or after the
16 second anniversary of the date of completion of the community
17 supervision.

18 Sec. 411.0737. PROCEDURE FOR CONVICTION; CERTAIN
19 NONVIOLENT FELONIES. (a) This section applies only to a person
20 who:

21 (1) is convicted of a felony other than a felony:

22 (A) listed in Article 42A.054(a), Code of
23 Criminal Procedure;

24 (B) for which the judgment contains an
25 affirmative finding under Article 42A.054(c) or (d), Code of
26 Criminal Procedure;

27 (C) punishable as a felony of the second degree

1 or a felony of the first degree under Subchapter D, Chapter 481,
2 Health and Safety Code;

3 (D) punishable under Section 481.1122, Health
4 and Safety Code;

5 (E) under Title 5, Penal Code;

6 (F) under Chapter 25, 29, 43, 49, or 71, Penal
7 Code;

8 (G) under Section 28.02, 36.02, 42.072, or 42.08,
9 Penal Code;

10 (H) punishable as a felony of the second degree
11 or a felony of the first degree under Section 28.03, Penal Code;

12 (I) punishable as a felony of the first degree
13 under Section 30.02, Penal Code;

14 (J) under Section 31.03 or 34.02, Penal Code,
15 that is punishable as a felony of the third degree or any higher
16 category of offense;

17 (K) punishable as a felony of the second degree
18 or a felony of the first degree under Section 38.06, Penal Code; or

19 (L) punishable as a felony of the second degree
20 under Section 46.14, Penal Code; and

21 (2) is not eligible for an order of nondisclosure of
22 criminal history record information under Section 411.0732.

23 (b) Notwithstanding any other provision of this subchapter
24 or Subchapter F, a person described by Subsection (a) who completes
25 the person's sentence, including any term of confinement imposed
26 and payment of all fines, costs, and restitution imposed, may
27 petition the court that imposed the sentence for an order of

1 nondisclosure of criminal history record information under this
2 section if the person:

3 (1) satisfies the requirements of this section and
4 Section 411.074;

5 (2) has never been previously convicted of or placed
6 on deferred adjudication community supervision for another offense
7 other than:

8 (A) a traffic offense that is punishable by fine
9 only; or

10 (B) an offense arising out of the criminal
11 episode during which the offense that is the subject of the petition
12 occurred; and

13 (3) has never previously received an order of
14 nondisclosure of criminal history record information under this
15 subchapter or other law for an offense, other than an offense
16 described by Subdivision (2)(A) or (B).

17 (c) Except as provided by Subsection (d), after notice to
18 the state, an opportunity for a hearing, and a determination that
19 the person is entitled to file the petition and issuance of the
20 order is in the best interest of justice, the court shall issue an
21 order prohibiting criminal justice agencies from disclosing to the
22 public criminal history record information related to the offense
23 for which the person was convicted.

24 (d) A court may not issue an order of nondisclosure of
25 criminal history record information under this section if the court
26 determines that the offense for which the order is sought was
27 violent or sexual in nature.

1 (e) A person may petition the court that imposed the
2 sentence for an order of nondisclosure of criminal history record
3 information under this section only on or after the third
4 anniversary of the date of completion of the person's sentence.

5 SECTION 3. This Act takes effect September 1, 2021.